STEVEN COLLOTON ON ABORTION

Highlights:

- Steven Colloton has a history of ruling to restrict reproductive freedoms.
    - Colloton voted to strike down the Affordable Care Act's birth control coverage rules, allowing religious exemptions for employers.
    - Colloton voted to reinstate a law that required abortion clinics to tell patients that abortions "terminate the life" of an "unborn human being."

Steven Colloton Has A History Of Ruling To Restrict Reproductive Freedoms

COLLOTON VOTED TO STRIKE DOWN THE AFFORDABLE CARE ACT'S CONTRACEPTIVE MANDATE, ALLOWING RELIGIOUS EXEMPTIONS FOR EMPLOYERS

2015: Colloton Voted To Strike Down The Affordable Care Act's Contraceptive Mandate In Dordt College v. Burwell And Sharpe Holdings v. HHS

2015: Colloton Voted To Strike Down The Affordable Care Act's Contraceptive Mandate. According to the Washington Times, "In a pair of opinions, the U.S. Court of Appeals for the Eighth Circuit sided with religious universities and ministries that object to insuring contraceptives they equate with abortion and feel that opt-out routes provided by the Department of Health and Human Services keep them complicit in sin. The rulings upheld a lower court's finding and marked a significant break from other circuit rulings that said HHS's efforts to accommodate the groups were sufficient." [Washington Times, 9/17/15]

Colloton Ruled That Requiring Employers To Notify The Insurer Or The Government In Order To Opt-Out Of Covering Contraceptives Was "A Burden Too Heavy To Bear." According to the Washington Times, "Under HHS rules, religious employers who object to covering birth control must notify an insurer, plan administrator or the government in writing so that a third party can manage and pay for the coverage. 'If one equates the self-certification process with, say, that of obtaining a parade permit, then indeed the burden might well be considered light. But if one sincerely believes that completing [the opt-out form] or HHS Notice will result in conscience-violating consequences, what some might consider an otherwise neutral act is a burden too heavy to bear,' wrote Judge Roger L. Wollman, an appointee of President Ronald Reagan, joined by judges William D. Benton and Steven M. Colloton, both appointees of President George W. Bush." [Washington Times, 9/17/15]

The Supreme Court Vacated The Rulings In Seven Challenges To The ACA Contraceptive Mandate Including Dordt College v. Burwell And Sharpe Holdings v. HHS

All Other Appeals Courts Upheld The ACA's Contraceptive Coverage Rules, Only The Eighth Circuit Ruled The Other Way. According to the Washington Post, "A panel of the U.S. Court of Appeals for the 8th Circuit in St. Louis said forcing two Missouri organizations to offer contraceptive coverage to employees — even indirectly — would violate the groups' religious freedoms. The decision was at odds with that of every other appeals court that has considered the issue. Those courts have said the government's compromise was adequate." [Washington Post, 9/17/15]

The Supreme Court Vacated The Rulings In Challenges To The ACA Contraceptive Mandate And Returned The Cases To The Lower Courts. According to the New York Times, "The Supreme Court, in an unsigned unanimous opinion, announced on Monday that it would not rule in a major case on access to contraception, and instructed lower courts to consider whether a compromise was possible. The opinion is the latest indication that the Supreme Court, which currently has eight members, is exploring every avenue to avoid 4-to-4 deadlocks, even if it does not decide the question the justices have agreed to address." [New York Times, 5/17/16]

COLLOTON VOTED TO REINSTATE A LAW THAT REQUIRED ABORTION CLINICS TO TELL PATIENTS THAT ABORTIONS "TERMINATE THE LIFE" OF AN "UNBORN HUMAN BEING"

2005: South Dakota Enacted House Bill 1166 Which Would Require Patients Seeking Abortions To Provide Written, Informed Consent To Obtain The Procedure

2005: South Dakota Enacted House Bill 1166 Which Would Require Patients Seeking Abortions To Provide Written, Informed Consent To Obtain The Procedure. According to the South Dakota legislature, "No abortion may be performed unless the physician first obtains a voluntary and informed written consent of the pregnant woman upon whom the physician intends to perform the abortion, unless the physician determines that obtaining an informed consent is impossible due to a medical emergency and further determines that delaying in performing the procedure until an informed consent can be obtained from the pregnant woman or her next of kin in accordance with chapter 34-12C is impossible due to the medical emergency, which determinations shall then be documented in the medical records of the patient." [S.D. Codified Laws. §34-23A-10.2, accessed 6/24/24]

House Bill 1166 Required Physicians To Tell Patients Seeking An Abortion That An Abortion Will "Terminate The Life Of A Whole, Separate, Unique, Living Human Being" With Whom The Patient Has "An Existing Relationship." According to the South Dakota legislature, "A consent to an abortion is not voluntary and informed, unless, in addition to any other information that must be disclosed under the common law doctrine, the physician provides that pregnant woman with the following information: (1) A statement in writing providing the following information: (a) The name of the physician who will perform the abortion; (b) That the abortion will terminate the life of a whole, separate, unique, living human being; (c) That the pregnant woman has an existing relationship with that unborn human being and that the relationship enjoys protection under the United States Constitution and under the laws of South Dakota; (d) That by having an abortion, her existing relationship and her existing constitutional rights with regards to that relationship will be terminated..." [S.D. Codified Laws. §34-23A-10.2, accessed 6/24/24]

Physicians Were Required To Tell Patients Seeking An Abortion That The Procedure Results In An "Increased Risk Of Suicide Ideation And Suicide." According to the South Dakota legislature, "(e) A description of all known medical risks of the procedure and statistically significant risk factors to which the pregnant woman would be subjected, including: (i) Depression and related psychological distress; (ii) Increased risk of suicide ideation and suicide;" [S.D. Codified Laws. §34-23A-10.2, accessed 6/24/24]

2005: Planned Parenthood v. Rounds Challenged The Constitutionality Of South Dakota House Bill 1166

2005: Planned Parenthood Challenged The Constitutionality Of South Dakota House Bill 1166 By Arguing That The Bill Interfered In The Doctor And Patient Relationship. According to a press release from Planned Parenthood, "Planned Parenthood challenged the law in federal district court to protect women in South Dakota who rely on Planned Parenthood for abortion services. The lawsuit was brought on a number of bases, including that it violates doctors' and patients' constitutional rights by interfering in the doctor/patient relationship." [Planned Parenthood, 1/30/14]

The American Psychological Association Found That The Claim That First Trimester Abortions Cause Mental Health Problems Was Not Supported By Research. According to the American Psychological Association, "The case involves an appeal by the state of South Dakota of a trial court ruling striking down as unconstitutional a South Dakota statute that required physicians to warn women considering an abortion that suicide or suicidal ideation are known medical risks of abortion. In reaching that decision the trial court relied in part on the Report of the APA Task Force on Mental Health and Abortion which found after a comprehensive literature review that the research does not support a finding that an abortion in the first trimester causes mental health problems." [American Psychological Association, 2010]

Colloton Voted To Reinstate The South Dakota Law, Including The Suicide Advisory, On The Basis That It Was Truthful And Non-Misleading

Colloton Voted To Reinstate The South Dakota Law, Including The Suicide Advisory, On The Basis That It Was Truthful And Non-Misleading. According to the United States Court of Appeals for the Eighth Circuit accessed via Justia, "COLLOTON, Circuit Judge, concurring in part and concurring in the judgment. [...] I concur in Part IV of the court's opinion concerning why the required disclosure is truthful. I also concur in the portion of Part V that explains why the record before the district court did not establish that the disclosure is misleading." [Planned Parenthood v. Rounds, 686 F.3d 889, accessed via Justia, 1/9/12]

In A 7-4 Vote, The South Dakota Law Was Allowed To Take Effect. According to a press release from Planned Parenthood, "In a 7-4 vote, the court, sitting en banc, vacated a lower court preliminary injunction, and allowed the South Dakota law to take effect." [Planned Parenthood, 1/30/14]